

**LOWER PAXTON TOWNSHIP  
ZONING HEARING BOARD**

Meeting of April 26, 2012

Members in Attendance

Richard Freeburn, Chairman  
Gregory Sirb, Vice Chairperson  
Sara Jane Cate  
David Dowling  
Watson Fisher, Alt.

Also in Attendance

James Turner, Solicitor  
Dianne Moran, Planning & Zoning Officer

**Variance via  
Docket #1310**

Applicant: Joseph A. & Elaine M. Plewa

Property: 5571 Banbridge Drive

Interpretation: The minimum side yard setbacks shall be as follows: one side yard shall be a minimum of 10 feet and the minimum total of the two side yards combined shall be 25 feet. Applicant seeks a variance to allow construction of an addition to the rear of the home maintaining the current setbacks.

Grounds: Section 307.A, of the Lower Paxton Township Zoning Ordinance pertains to this application.

Fees Paid: March 30, 2012

Property Posted: April 17, 2012

Advertisement: Appeared in The Paxton Herald on April 11 & 18, 2012.

The hearing began at 8:05 pm.

Mr. Freeburn stated it is customary for the Board to enter as exhibits the application and site plans. The applicants had no objection to its doing so.

The following were sworn in: Elaine Plewa, property owner; John Pechard 1051 Hawn Road, Accord Restoration; and Curt Plewa, 7 Harrise Drive. Dianne Moran, Planning & Zoning Officer remained under oath from the previous hearing.

Ms. Moran explained that the applicant needs to meet a setback of two combined side yards of 25 feet, and they currently have 10 feet on each side.

Mr. Dowling stated that the application and attachments submitted show very clearly what is needed and why, and he asked the applicant to be brief.

Mr. Plewa explained that his father has muscular dystrophy and is in a wheelchair. He has aides that come everyday and there is not enough room in the house. The kitchen, dining room, and bathroom are not accessible. He commented that it is bad enough that his father is in a wheelchair, but it is made worse when he can do nothing for himself in his own home. His parents have gotten some money from the Veterans Administration to help pay for the addition.

Mr. Plewa explained that they wish to extend the house to the rear by 14 feet, and they would like to continue the same width as the existing house. The siding on the addition will match the house.

Mr. Plewa explained that the roof pitch will probably continue the same pitch as the existing house for about 4 feet, then level off to a 2:12 pitch. That pitch will require use a rubber material according to the building code. Mr. Freeburn asked about the roof style. Mr. Plewa stated that it will not be a flat roof, but it will not have enough pitch for shingles. Mr. Pechard added that the design is not finalized, pending the outcome of this hearing.

Mr. Freeburn asked about the appearance to the neighbors. Mr. Pechard stated that it will be on the back of the house where no one can see it from the road, and it will not look bad. He added that one of the neighbors already has a flat rubber roof addition.

Mr. Fisher asked if they have talked to the neighbors about the proposal. Mr. Plewa answered yes and they had no objections.

The addition is to provide a bedroom, bathroom, kitchen, dining room and an exit for Mr. Plewa. All of these will be ADA compliant. Mr. Freeburn asked the location of the exit. Mr. Pechard stated it would be on the side. Mr. Plewa stated that it may come out the back and come around if that is what will be approved for ADA. Right now he comes out the dining room, or out over the deck to the garage to the front yard. The front door has a step up and there isn't enough room to ramp it. Mr. Pechard stated that one proposal is to have an exit to the side of the house and a ramp along the side to end up ground level in the front of the house. It will be three feet wide.

Mr. Freeburn asked if the ramp will require additional variance if it encroaches more into the setback. Ms. Moran stated that in the ordinance any ADA additions such as ramps may extend into setbacks without limitations.

There was no comment offered from the audience and the Township did not have a position on the application.

Ms. Cate made a motion to grant the application as submitted. Mr. Dowling seconded the motion and a roll call vote followed: Mr. Fisher-Aye; Mr. Dowling-Aye; Mr. Sirb-Aye; Ms. Cate-Aye; and Mr. Freeburn-Aye.

The variance was granted.

The hearing ended at 8:21 pm.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "MHiner", is written over the printed name.

Michelle Hiner  
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON  
: TOWNSHIP ZONING HEARING BOARD  
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA  
:  
JOSEPH A. and ELAINE M. :  
PLEWA : DOCKET NO. 1310

### **DECISION GRANTING VARIANCE**

The applicants seek a variance from minimum side yard setback requirements. A hearing on the application was held on April 26, 2012.

#### **Facts**

1. The applicants and owners of the property in question are Joseph A. and Elaine M. Plewa of 5571 Banbridge Drive, Harrisburg, Pennsylvania. Also appearing on behalf of the applicant was John Pechart, contractor.

2. The property in question consists of a rectangular lot with 80 feet of frontage located on the west side of Banbridge Drive. The parcel is zoned Residential, R-1.

3. The property is improved with a single family residence known as 5571 Banbridge Drive. The house is setback 10 feet from the north and south side yard property lines.

4. The applicants propose to erect a 44 feet wide by 14 feet deep addition to the rear of the property. The addition would follow the southern line of the existing dwelling, resulting in a side yard setback of ten feet. To the north, the addition would follow the line of the house with an attached deck that would extend further to the north, to be even with the line of the existing attached garage, resulting in a ten foot setback.

5. The applicants seek to construct the addition to create a handicap accessible living space in the house.

6. Notice of the hearing was posted and advertisement made as required by the ordinance.

7. No one other than the applicant and his representatives appeared to testify either in favor of or against the proposed variance.

### **Conclusions**

1. Section 307.A of the ordinance requires a minimum side yard setback of 10 feet and an aggregate setback of 25 feet in the R-1 zone. While the proposed construction meets the minimum setback it would violate the aggregate setback required under the ordinance.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the property is burdened by a hardship not created by the owners consisting of the narrow lot width. This makes any addition difficult to accomplish without variance.

4. Granting the variance will not alter the essential character of the neighborhood. The addition follows the lines of the existing home and the minimum setbacks are met, resulting in adequate protection for adjoining properties. There will be

no effect on surrounding property values or the public welfare. From the public street, the addition will not be noticeable.

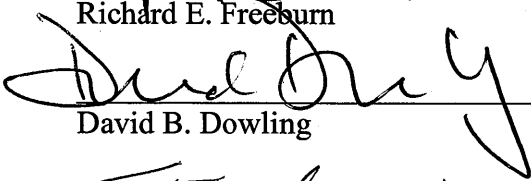
**Decision**


In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variance requested should be and is hereby granted allowing the erection of a 14 feet by 44 feet addition to the existing home with side yard minimum setbacks of ten feet and aggregate of twenty feet. In all respects constructions shall be in strict accord with the plans and testimony submitted to the Board.

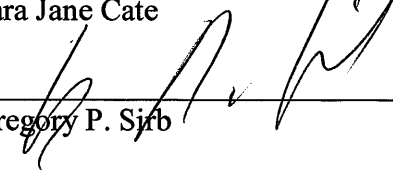
Date: 5/24/2012

LOWER PAXTON TOWNSHIP  
ZONING HEARING BOARD

  
Richard E. Freeburn

  
David B. Dowling

  
Sara Jane Cate

  
Gregory P. Sirb

\_\_\_\_\_  
Watson Fisher

**LOWER PAXTON TOWNSHIP  
ZONING HEARING BOARD**

Meeting of April 26, 2012

Members in Attendance

Richard Freeburn, Chairman  
Gregory Sirb, Vice Chairperson  
Sara Jane Cate  
Watson Fisher, Alt.

Also in Attendance

James Turner, Solicitor  
Dianne Moran, Planning & Zoning Officer

**Variance via  
Docket #1311**

Applicant: David & Marilyn Dowling

Property: 2132 Sycamore Drive

Interpretation: Maximum height of a fence in a residential district is 6.5 feet.  
Applicant seeks a variance to allow a fence 7.5 feet in height.

Grounds: Section 403.D.c.3, of the Lower Paxton Township Zoning Ordinance pertains to this application.

Fees Paid: March 30, 2012

Property Posted: April 17, 2012

Advertisement: Appeared in The Paxton Herald on April 11 & 18, 2012.

The hearing began at 8:22 pm.

Mr. Freeburn stated it is customary for the Board to enter as exhibits the application and site plans. The applicant had no objection to its doing so.

David Dowling, applicant, was sworn in. Dianne Moran, Planning & Zoning Officer remained under oath from the previous hearing.

Mr. Dowling stated that he planted a row of evergreen trees about 20 years ago and the lower branches are starting to die off. He would like to install a fence to run between the two rows of trees. This would provide privacy from the office building to the rear of Mr. Dowling's home. There is currently a farm style fence and that will be removed and replaced with a white vinyl fence.

Mr. Dowling explained that the reason for the extra height of the fence is that the rear yard slopes down substantially so a 6-foot fence would not afford much privacy. The extra height would provide privacy to the lowest level where the basement walks out. The trees fill in above that to provide privacy to the deck. He stated there are unique physical characteristics due to the slope and proximity to the office buildings. One building is at least 400 feet away and one is about 50 to 75 feet away.

Mr. Freeburn asked about the neighbors. Mr. Dowling stated it is his feeling that the fence would improve their backyards as well. He did talk to some and cleared up the idea that he may be installing a tennis court, which he is not.

Mr. Sirb asked about the need for more privacy. Mr. Dowling explained he will have a grandchild this summer and would like a fence for when they visit, as well as for his dogs, who have on occasion gotten out of the farm style fence.

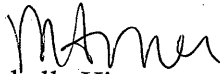
There was no comment from the audience. The Township had no position on the application.

Mr. Sirb made a motion to grant the application as submitted. Ms. Cate seconded the motion and a roll call vote followed: Mr. Fisher-Aye; Mr. Sirb-Aye; Ms. Cate-Aye; and Mr. Freeburn-Aye.

The variance was granted.

The hearing ended at 8:31 pm.

Respectfully Submitted,

  
Michelle Hiner  
Recording Secretary



IN RE: : BEFORE THE LOWER PAXTON  
: TOWNSHIP ZONING HEARING BOARD  
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA  
:  
DAVID and MARILYN DOWLING : DOCKET NO. 1311

### **DECISION GRANTING VARIANCE**

The applicants seek a variance from maximum height restrictions for a fence in the R-1 zoning district. A hearing on the application was held on April 26, 2012.

#### **Facts**

1. The applicants and owners of the property in question are David and Marilyn Dowling of 2132 Sycamore Drive, Harrisburg, Pennsylvania.
2. The property in question consists of a rectangular lot located on the north side of Sycamore Drive. The property is zoned R-1 residential but is bounded to the north by a commercially zoned and developed district.
3. The property is improved with a single family dwelling known as 2132 Sycamore Drive. Because of the sloping terrain the dwelling sits higher than the adjoining commercial property.
4. The rear of the property has a row of pine trees on or near the property line which provided screening from the commercial property. Over time the lower branches of the trees have died exposing the rear yard to the commercial property.
5. The applicant proposes to erect a 7 feet 6 inch privacy fence along the rear property line to provide screening from the commercial properties. A lower height fence would leave most of the rear yard exposed to the commercial properties due to the difference in elevation.
6. Notice of the hearing was posted and advertisement made as required by the ordinance.

7. No one other than the applicant and his representatives appeared to testify either in favor of or against the proposed variance.

### **Conclusions**

1. Section 403.D of the ordinance limits the height of fences in residential districts to 6.5 feet. The proposed fence would violate this section of the ordinance.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the property is burdened by a hardship consisting of the difference in elevation between the subject property and the adjoining commercial property. This difference renders the rear of the property open to persons on the commercial site. The installation of a 6.5 feet fence would not provide reasonable screening of the property.

4. Granting the variance will not alter the essential character of the neighborhood nor diminish surrounding property values. The only property significantly affected is the commercial office building and the portion of the property adjacent to the fence is a parking lot.

**Decision**

In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variance requested should be and is hereby granted allowing the erection of a 7.5 feet fence in strict conformity with the plans and testimony submitted to the Board.

Date: 5/24/2012

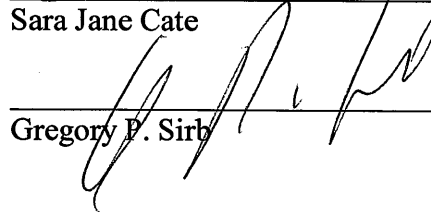
LOWER PAXTON TOWNSHIP  
ZONING HEARING BOARD



Richard E. Freeburn



Sara Jane Cate



Gregory P. Sirb

Watson Fisher

David B. Dowling abstained from participating in the hearing as a member of the Board.